

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

NELSON LORA-PENA,)
)
Plaintiff,)
)
v.) Civ. No. 06-442-SLR
)
UNITED STATES,)
)
Defendant.)

O R D E R

At Wilmington this ~~20~~* day of February, 2007, having considered plaintiff's motion for an extension of time to respond to defendant's motion to dismiss (D.I. 24);

IT IS ORDERED that said motion is granted.

IT IS FURTHER ORDERED that:

1. Because matters outside of the pleadings were presented to the court in support of said motion to dismiss, the court will review the motion as one for summary judgment pursuant to Fed. R. Civ. P. 12(b) and 56(b).

2. Because defendant relies upon an affidavit in support of its motion, the averments of fact in the affidavit shall be accepted as true, pursuant to Fed. R. Civ. P. 56(e), for the purpose of deciding the motion unless plaintiff timely files a counter-affidavit or statement under penalty of perjury refuting said averments.

3. Briefing on this motion shall proceed in

accordance with the following schedule:

- a) Plaintiff shall file and serve a response to defendant's motion (including answering brief and accompanying affidavits, exhibits, etc., if any) on or before **March 20, 2007**.
- b) Defendant may file and serve reply brief on or before **April 3, 2007**.

Sue L. Robens
United States District Judge